THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.20889 OF 2005

DATE:23.09.2005

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Between:

K.Lakshmi, W/o. Late Durgaiah,

R/o.Jenevarigudem (v) Buttayagudem (M),

West Godavari District

…… Petitioner

And

Government of Andhra Pradesh,

Rep. by its Secretary, Department of Tribal Welfare,

A.P.Secretariat, Hyderabad and others

…… Respondents

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 20889 of 2005

ORDER:

Petitioner feels aggrieved by the order, dated 23.08.2005, passed by the Special Deputy Collector, Tribal Welfare, K.R.Puram, West Godavari, 2nd respondent, in S.R.No.34 of 2005. Petitioner states that she is the owner and possessor of Ac.2.9 cents of land in S.No.29 of Marlagudem Village of Buttayagudem Mandal. On an application filed by the Special Deputy Tahsildar, Tribal Welfare, the 2nd respondent initiated proceedings, in respect of the said land, under the A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970, against respondents 4 and 5 herein. On receipt of notice, the 4th respondent stated that he has no concern with the land and that it belongs to the petitioner herein. The 5th respondent sought to assert his rights. Through the impugned order, the 2nd respondent directed eviction from the land.

Petitioner contends that though she was the registered and recorded owner of the land and though the said fact was brought to the notice of the 2nd respondent, he did

not choose to issue notice to her and her eviction was ordered.

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare.

A perusal of the impugned order discloses that the 2nd respondent issued notices to respondents 4 and 5, alleging that their claim, *vis-à-vis,* the land, is contrary to the Regulations. On receipt of notice, the 4th respondent flatly denied any claim, *vis-à-vis,* the land. On the other hand, he stated that the petitioner herein is in possession and enjoyment of the land. Despite the same, the 2nd respondent did not choose to order notice to the petitioner nor did he require the petitioner before him i.e., the Special Deputy Tahsildar, to implead the petitioner herein.

It is true that an appeal lies to the Agent to the Government against the order passed by the 2nd respondent. However, once it has emerged that the impugned order was passed in utter violation of principles of natural justice, the petitioner cannot be required to undergo the ordeal of preferring an appeal.

For the foregoing reasons, the writ petition is allowed and the impugned order is set aside. It is, however, made clear that in case the respondents 1 to 3 feel that the possession or ownership of the land in question is in contravention of any provisions of the Regulations, it shall be open to them to proceed further only after impleading the petitioner in such proceedings. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

23rd SEPTEMBER, 2005.

Note: Operative portion by wire

at party's costs.

(B/o) TS